

§ 107.650

13 CFR Ch. I (1–1–10 Edition)

§ 107.650 Requirement to report portfolio valuations to SBA.

You must determine the value of your Loans and Investments in accordance with § 107.503. You must report such valuations to SBA within 90 days of the end of the fiscal year in the case of annual valuations, and within 30 days following the close of other reporting periods. You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

§ 107.660 Other items required to be filed by Licensee with SBA.

(a) *Reports to owners.* You must give SBA a copy of any report you furnish to your investors, including any prospectus, letter, or other publication concerning your financial operations or those of any Portfolio Concern.

(b) *Documents filed with SEC.* You must give SBA a copy of any report, application or document you file with the Securities and Exchange Commission.

(c) *Litigation reports.* When you become a party to litigation or other proceedings, you must give SBA a report within 30 days that describes the proceedings and identifies the other parties involved and your relationship to them.

(1) The proceedings covered by this paragraph (c) include any action by you, or by your security holder(s) in a personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of yours for alleged breach of official duty.

(2) SBA may require you to submit copies of the pleadings and other documents SBA may specify.

(3) Where proceedings have been terminated by settlement or final judgment, you must promptly advise SBA of the terms.

(4) This paragraph (c) does not apply to collection actions or proceedings to enforce your ordinary creditors' rights.

(d) *Notification of criminal charges.* If any officer, director, or general partner of the Licensee, or any other person who was required by SBA to complete a personal history statement in connection with your license, is charged with or convicted of any criminal offense other than a misdemeanor involv-

ing a minor motor vehicle violation, you must report the incident to SBA within 5 calendar days. Such report must fully describe the facts which pertain to the incident.

(e) *Other reports.* You must file any other reports that SBA may require by written directive.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5866, Feb. 5, 1998]

§ 107.670 Application for exemption from civil penalty for late filing of reports.

(a) If it is impracticable to submit any required report within the time allowed, you may apply for an extension. The request for an extension must:

(1) Be filed before the reporting deadline;

(2) Certify to an extraordinary occurrence, not within your control, that makes timely filing of the report impracticable; and

(3) Be accompanied by written evidence of such occurrence, where appropriate.

(b) Upon receipt of your request, SBA may exempt you from the civil penalty provision of section 315(a) of the Act, in such manner and under such conditions as SBA determines.

§ 107.680 Reporting changes in Licensee not subject to prior SBA approval.

(a) *Changes to be reported for post approval.* (1) This section applies to any changes in your Articles, ownership, capitalization, management, operating area, or investment policies that do not require SBA's prior approval. You must report such changes to SBA within 30 days for post approval. A processing fee of \$200 must accompany each request for post approval of new officers, directors, or Control Persons.

(2) *Exception for non-leveraged Licensees.* If you do not have outstanding Leverage or Earmarked Assets, you are not required to obtain post approval of new directors or new officers other than your chief operating officer; however, you must notify SBA of the new directors or officers within 30 days.

(b) *Approval by SBA.* You may consider any change submitted under this section § 107.680 to be approved unless

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SBA notifies you to the contrary within 90 days after receiving it. SBA's approval is contingent upon your full disclosure of all relevant facts and is subject to any conditions SBA may prescribe.

EXAMINATIONS OF LICENSEES BY SBA FOR REGULATORY COMPLIANCE

§ 107.690 Examinations.

SBA will examine all Licensees for the purpose of evaluating regulatory compliance.

§ 107.691 Responsibilities of Licensee during examination.

You must make all books, records and other pertinent documents and materials available for the examination, including any information required by the examiner under § 107.620(c). In addition,

the agreement between you and the independent public accountant performing your audit must provide that any information in the accountant's working papers be made available to SBA upon request.

§ 107.692 Examination fees.

(a) *General.* SBA will assess fees for examinations in accordance with this § 107.692. Unless SBA determines otherwise on a case by case basis, SBA will not assess fees for special examinations to obtain specific information.

(b) *Base fee.* A base fee will be assessed based on your total assets (at cost) as of the date of your latest certified financial statement or a more recent interim statement requested by and submitted to SBA in connection with the examination. The base fee table is as follows:

Total assets of licensee	Base fee	Plus, percent of assets
\$0 to \$1,500,000	\$3,500	+0%
\$1,500,001 to \$5,000,000	3,700	+0.065% of the amount over \$1,500,000
\$5,000,001 to \$10,000,000	6,000	+0.02% of the amount over \$5,000,000
\$10,000,001 to \$15,000,000	7,000	+0.01% of the amount over \$10,000,000
\$15,000,001 to \$25,000,000	7,700	+0.015% of the amount over \$15,000,000
\$25,000,001 to \$50,000,000	9,200	+0.015% of the amount over \$25,000,000
\$50,000,001 to \$60,000,000	13,000	+0.01% of the amount over \$50,000,000
\$60,000,001 and above	14,000	+0%

(c) *Adjustments to base fee.* Your base fee, as determined by the table in paragraph (b) of this section, will be adjusted (increased or decreased) based on the following criteria:

(1) If you have no outstanding regulatory violations at the time of the commencement of the examination and SBA did not identify any violations as a result of the most recent prior examination, you will receive a 15% discount on your base fee;

(2) If you were fully responsive to the letter of notification of examination (that is, you provided all requested documents and information within the time period stipulated in the notification letter in a complete and accurate manner, and you prepared and had available all information requested by

the examiner for on-site review), you will receive a 10% discount on your base fee;

(3) If you are organized as a partnership or limited liability company, you will pay an additional charge equal to 5% of your base fee;

(4) If you are a Licensee authorized to issue Participating Securities, you will pay an additional charge equal to 10% of your base fee; and

(5) If you maintain your records/files in multiple locations (as permitted under § 107.600(b)), you will pay an additional charge equal to 10% of your base fee.

(d) *Fee discounts and additions table.* The following table summarizes the discounts and additions noted in paragraph (c) of this section:

Examination fee discounts	Amount of discount— % of base examination fee	Examination fee additions	Amount of Addition— % of base examination fee
No prior violations	15	Partnership or limited liability company	5